

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
June 14, 2010

- D054784 In re Nataly B., a Juvenile**
The order is affirmed. McDonald, J.; We Concur: Nares, Acting P.J., O'Rourke, J.
- D054784 People v. Castaneda**
The judgment is affirmed. McIntyre, J.; We Concur: Nares, Acting P.J., Haller, J.
- D054660 People v. Riley**
The judgment is affirmed. CERTIFIED FOR PARTIAL PUBLICATION.
Aaron, J.; We Concur: Benke, Acting P.J., McDonald, J.
- D055503 People v. Willson**
The judgment of the trial court is affirmed.
Aaron, J.; We Concur: Benke, Acting P.J., McDonald, J.
- D054322 People v. Auvil**
The judgment of conviction is affirmed.
Benke, J.; We Concur: McConnell, P.J., Aaron, J.

Court convened at 9:00 a.m.

Present: The Honorable Judith McConnell, Presiding Justice, and
 The Honorable Associate Justices Richard Huffman and James McIntyre
Clerk: D. Moore

D055262 People v. Neeley
Cause called on merits. Cynthia Diane Jones, Esq. argued for appellant.
Ronald Alan Jakob, Deputy Attorney General, argued for respondent.
Ms. Jones replied. Cause submitted.

D055350 People v. R J Reynolds Tobacco Company
Cause called on merits. Noel J. Francisco, Esq. argued for appellant.
Jeanne Finberg, Deputy Attorney General, argued for respondent.
Mr. Finberg replied. Cause submitted.

Court recessed at 9:56 a.m. to change panel members.

New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and
 The Honorable Associate Justices James McIntyre and Joan Irion

D054983 People v. Melanson
Cause called on merits. Robert E. Boyce, Esq. argued for appellant.
Peter Quon, Deputy Attorney General, argued for respondent. Mr. Boyce replied.
Cause submitted.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

June 14, 2010 (Continued)

D055719 Image 2000 Multimedia, Inc., et al. v. Quin

Cause called on merits. Stephen M. Hogan, Esq. argued for appellant.
William A. Markhum, Esq. argued for respondent. Cause submitted.

Court recessed at 10:52 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Judith McConnell, Presiding Justice, and
 The Honorable Associate Justices Terry O'Rourke and Joan Irion
Clerk: D. Moore

D054967 Chavira v. Palomar Medical Center et al.

Cause called on merits. David Rosenberg, Esq. argued for appellant.
Blake Richard Jones, Esq. argued for respondent. Mr. Rosenberg replied.
Cause submitted.

**D055976 Citizens for Responsible Equitable Environmental Development et al. v. City
 of San Diego**

Cause called on merits. Heather I. Stroud, Deputy City Attorney, argued for
respondent. Kathryn Diane Horning, Esq. argued for real party in interest and
respondent, EQR-Deerwood Vista, Inc. Christopher R. Mordy, Esq. argued for real
party in interest and respondent, Browar. Cory Jay Briggs, Esq. replied for
appellant. Cause submitted.

Court recessed at 2:29 p.m. to change panel members.

New panel members: The Honorable Judith McConnell, Presiding Justice, and
 The Honorable Associate Justices James McIntyre and Terry O'Rourke

D054369 Nelson et al. v. Pearson Ford Co.

Cause called on merits. Christopher P. Barry, Esq. argued for appellant, Nelson.
S. Thomas Todd, Esq. argued for appellant, Pearson Ford Co. Mr. Barry replied.
Cause submitted.

D05392 Singer v. Singer

Cause called on merits. Michael Gerard Singer argued for appellant in pro per.
Stephen Temko, Esq. argued for respondent. Mr. Singer replied. Cause submitted.

Court recessed at 3:55 p.m. until Tuesday, June 15, 2010 at 9:00 a.m.

D057351 In re Becerra on Habeas Corpus

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
June 14, 2010 (Continued)

D057350 In re Curry on Habeas Corpus
The petition is denied.

D056697 In re E.B. et al., Juveniles
Upon filing a written abandonment of appeal, the appeal is dismissed and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.244(c)(2).)

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
June 15, 2010

- D055886 In re Isabella C. et al., Juveniles**
The orders are affirmed. The Agency's appeal is dismissed.
Benke, Acting P.J.; We Concur: McDonald, J., O'Rourke, J.
- D057224 In re Washington on Habeas Corpus**
The petition is denied.
- D057474 In re Sevier on Habeas Corpus**
The petition is denied.
- D057223 In re Martinez on Habeas Corpus**
The petition is denied.
- D056373 The Lincoln Life and Annuity Company of New York v. Teren/Berck**
Upon written request filed by appellant, the appeal as to respondent Jack Teren is dismissed and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.244(c)(2).)
- D055660 People v. Torbert**
The judgment is affirmed. O'Rourke, J.; We Concur: Benke, Acting P.J., Nares, J.
- D055924 Lau v. Hernandez et al.**
Affirmed. Haller, J.; We Concur: Huffman, Acting P.J., McIntyre, J.
- D057269 T.P. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**
No timely petition for writ relief has been filed. The notice of intent is deemed to be abandoned. The case is dismissed.
- D057399 T.B. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**
The attorney for petitioner T.B. has notified the court that a petition for writ of mandate under California Rules of Court, rules 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case is dismissed.

Court convened at 9:00 a.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and
 The Honorable Associate Justices Gilbert Nares and Cynthia Aaron
Clerk: D. Moore

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

June 15, 2010 (Continued)

D056280 People v. Mesa

Cause called on merits. Richard De La Sota, Esq. argued for appellant.
Cristin Morneau, Deputy Attorney General, argued for respondent.
Cause submitted.

D054179 People v. Myers

Cause called on merits. Jerome P. Wallingford, Esq. argued for appellant.
Marilyn Lindsay George, Deputy Attorney General, argued for respondent.
Cause submitted.

D055297 Shapiro v. Shapiro

Cause called on merits. Richard A. Shapiro argued for appellant in pro per.
Judy L. Shapiro was present in oral argument for respondent in pro per, but did not
argue. Cause submitted.

D055349 People v. Harmon

Cause called on merits. Randi Dana Covin, Esq. argued for appellant.
James Henry Flaherty, Deputy Attorney General, argued for respondent.
Ms. Covin replied. Cause submitted.

Court recessed at 9:54 a.m. until 11:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and
 The Honorable Associate Justices Gilbert Nares and Alex McDonald
Clerk: D. Moore

D053687 People v. Dang

Cause called on merits. Joanna McKim, Esq. argued for appellant.
Vincent LaPietra, Deputy Attorney General, argued for respondent.
Ms. McKim replied. Cause submitted.

D055817 McCarthy v. Hyundai Motor America

Cause called on merits. Michael Edward Lindsey, Esq. argued for appellant.
John Morris, Esq. argued for respondent. Mr. Lindsey replied. Cause submitted.

D055850 Sellers v. Engler

Cause called on merits. Charles A. Bird, Esq. argued for appellant.
Cause submitted.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
June 15, 2010 (Continued)

D055736 Tang v. CS Clean Systems

Cause called on merits. Chuanchi Tang, Esq. argued for appellant.
Troy M. Yoshino, Esq. argued for respondent. Mr. Tang replied. Cause submitted.

Court recessed at 2:21 p.m. until Thursday, June 18, 2010 at 9:00 a.m.

D057051 In re O.P., a Juvenile

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rules 8.412(d)(1)(A), and 8.416(g). The appeal is dismissed.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
June 16, 2010

Court Furlough Day

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
June 17, 2010

- D055054 People v. Smith**
Judgment affirmed. Benke, J.; We Concur: McConnell, P.J., Aaron, J.
- D057494 Sabadicci et al. v. Superior Court of San Diego County/National Food Laboratory et al.**
The petition is denied.
- D055034 Wolf v. CDS DEVCO et al.**
The judgment of dismissal is affirmed. Costs are awarded to respondent. Huffman, Acting P.J.; We Concur: Nares, J., McIntyre, J.
- D057504 People v. Miller**
The denial of a petition for writ of habeas corpus is not appealable. The appeal is dismissed.
- D055991 In re Joseph J., a Juvenile**
The judgment is affirmed. McIntyre, J.; We Concur: Benke, Acting P.J., Nares, J.
- D056161 People v. Herrera**
The judgment is affirmed. The case is remanded to the trial court for amendment of the abstract of judgment, as set forth in this opinion, and forwarding of the amended abstract to the Department of Corrections and Rehabilitation. O'Rourke, J.; We Concur: McDonald, Acting P.J., McIntyre, J.
- D055012 In re Jonathan M., a Juvenile**
The judgment is affirmed. O'Rourke, J.; We Concur: Huffman, Acting P.J., McIntyre, J.
- D055371 In re G.H., a Juvenile**
The judgment is affirmed. O'Rourke, J.; We Concur: McConnell, P.J., Irion, J.
- D055699 San Diego Navy Broadway Complex Coalition v. City of San Diego/Manchester Pacific Gateway LLC**
The judgment is affirmed. The Coalition is to bear costs on appeal. CERTIFIED FOR PUBLICATION. Aaron, J.; We Concur: Haller, Acting P.J., Irion, J.
- D055089 People v. Casey**
The judgment is reversed and the matter is remanded for further proceedings as to counts 1 (robbery: §211) and 2 (assault with a firearm: §245, subd. (a)(2)) and related allegations only. Nares, J.; We Concur: Huffman, Acting P.J., O'Rourke, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

June 17, 2010 (Continued)

D056490 People v. Sorra

The judgment is affirmed. Haller, J.; We Concur: McConnell, P.J., Benke, J.

D053377 People v. Roberts et al.

The petition for rehearing filed on June 9, 2010 on behalf of Milton Allen Pettis is denied.

D055582 People v. Henderson

The judgment is affirmed. Irion, J.; We Concur: Nares, Acting P.J., Aaron, J.

D057436 In re Carrera, Jr., on Habeas Corpus

The petition is denied.

Court convened at 9:00 a.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and
 The Honorable Associate Justices James McIntyre and Joan Irion

Clerk: D. Moore

D055922 In re N.F., a Juvenile

Cause called on merits. Elizabeth Alexander, Esq. argued for appellant, J.K. Jamie A. Moran, Esq. argued for appellant, D.F. Robert W. Gehring, Esq. argued for the minor. Lisa Maldonado, Deputy County Counsel, argued for respondent. Ms. Alexander replied. Cause submitted.

D054728 Homeowners Association of Meadowbrook Estates et al. v. Manufactured Home Communities, Inc., et al.

Cause called on merits. Jeremy Michael Singer, Esq. argued for appellant. David J. Bradford, Esq. argued for respondent. Mr. Singer replied. Cause submitted.

Court recessed at 9:57 a.m. to change panels.

New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and
 The Honorable Associate Justices Richard Huffman and Joan Irion

D054496 Kelman et al. v. Kramer

Cause called on merits. Sharon Kramer argued for appellant in pro per. Keith Scheuer, Esq. argued for respondent. Ms. Kramer replied. Cause submitted.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
June 17, 2010 (Continued)

Court recessed at 10:34 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Judith McConnell, Presiding Justice, and
The Honorable Associate Justices James McIntyre and Joan Irion
Clerk: D. Moore

D055579 Torrey Hills Community Coalition v. City of San Diego
Cause called on merits. Julie Marie Hamilton, Esq. argued for appellant.
Allen Decker Haynie, Esq. argued for respondent. Ms. Hamilton replied.
Cause submitted.

Court recessed at 1:55 p.m. to change panel members.

New panel members: The Honorable Judith McConnell, Presiding Justice, and
The Honorable Associate Justices Richard Huffman and Joan Irion

D054388 Schuster v. Schuster
Cause called on merits. Stephen Temko, Esq. argued for appellant.
Kendra J. Hall, Esq. argued for respondent. Mr. Temko replied. Cause submitted.

Court recessed at 2:30 p.m. to change panel members.

New panel members: The Honorable Judith McConnell, Presiding Justice, and
The Honorable Associate Justices Richard Huffman and Alex McDonald

D055268 Kaye v. Board of Trustees of The San Diego County Public Library
Cause called on merits. Michael Kaye argued for appellant in pro per.
Margaret Chandler Bell, Esq. argued for respondent. Mr. Kaye replied.
Cause submitted.

Court recessed at 3:00 p.m. until Friday, June 18, 2010 at 9:00 a.m.

D057500 City of San Diego v. Superior Court of San Diego County/Zapata
The petition is denied.

D055976 Citizens for Responsible Equitable Environmental Development v. City of San Diego et al.
The judgment is affirmed. Irion, J.; We Concur: McConnell, P.J., O'Rourke, J.

D056592 In re Hunter, a Juvenile
The order is affirmed. McIntyre, J.; We Concur: McConnell, P.J., Huffman, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
June 18, 2010

- D054983 People v. Melanson**
The judgment is affirmed. Irion, J.; We Concur: Huffman, Acting P.J., McIntyre, J.
- D055997 People v. Timms**
The judgment is affirmed.
McDonald, Acting P.J.; We Concur: McIntyre, J., Irion, J.
- D056186 People v. Kaminsky**
The judgment is affirmed.
Nares, Acting P.J.; We Concur: McIntyre, J., O'Rourke, J.
- D055914 People v. De La Torre**
The judgment is affirmed.
Aaron, J.; We Concur: Huffman, Acting P.J., O'Rourke, J.
- D056181 People v. Huff**
The judgment is affirmed. Aaron, J.; We Concur: Nares, Acting P.J., Irion, J.
- D054897 People v. Taylor**
The judgment is affirmed. Irion, J.; We Concur: Huffman, Acting P.J., Nares, J.
- D055262 People v. Neeley**
The judgment is affirmed. McIntyre, J.; We Concur: McConnell, P.J., Huffman, J.
- D056082 In re A.W. et al., Juveniles**
The judgment terminating parental rights is reversed and the case is remanded to the juvenile court with directions to order the Agency to comply with the notice provisions of ICWA, the relevant case law interpreting ICWA and the views expressed in this opinion, and to file all required documentation with the juvenile court for the court's inspection. If, after proper notice, a tribe claims the minors as Indian children, the juvenile court shall proceed in conformity with all provisions of ICWA. If, on the other hand, no tribe claims that the minors are Indian children, the judgment terminating parental rights shall be reinstated.
Benke, Acting P.J.; We Concur: Huffman, J., Nares, J.
- D056921 In re Jordan W., a Juvenile**
The appeal is dismissed. McIntyre, J.; We Concur: Benke, Acting P.J., Huffman, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
June 18, 2010 (Continued)

D056003 In re Alexis S., a Juvenile

The order terminating parental rights is reversed. The matter is remanded to the juvenile court with directions to order the Agency to conduct further investigation and to provide notice in accordance with ICWA. After proper notice, if the court finds that Alexis is an Indian child, it shall proceed in conformity with ICWA. After proper notice, if the court finds that Alexis is not an Indian child, the order terminating parental rights and selecting adoption as the permanent plan shall be immediately reinstated. McIntyre, J.; We Concur: Haller, Acting P.J., O'Rourke, J.

D054522 Pennsylvania General Insurance Company v. American Safety Indemnity Company et al.

The petition for rehearing is denied.

D054669 People v. Heard

We modify the judgment to strike the \$200 probation revocation restitution fine and the \$40 state surcharge. We remand the matter back to the trial court to determine whether it imposed a state court facilities penalty assessment and, if so, to identify the amount of the assessment and strike it. The judgment is affirmed in all other respects. McConnell, P.J.; We Concur: McIntyre, J., O'Rourke, J.

D056210 In re the Marriage of Ozerets

The order is affirmed. Father is entitled to costs on appeal.
McDonald, J.; We Concur: Benke, Acting P.J., Aaron, J.

D057040 In re Jeremiah L., a Juvenile

The appeal is dismissed. O'Rourke, J.; We Concur: Benke, Acting P.J., Huffman, J.

D057209 Lowe v. Workers' Compensation Appeals Board and City of Los Angeles

The petition is denied.

D057348 In re Sua on Habeas Corpus

The petition is denied.

D056007 White v. Denham

Upon written request filed by appellant, the appeal is dismissed and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.244(c)(2).)

Court convened at 9:00 a.m.

Present: The Honorable Gilbert Nares, Acting Presiding Justice, and
 The Honorable Associate Justices Alex McDonald and Cynthia Aaron
Clerk: D. Moore

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

June 18, 2010 (Continued)

D055447 Jencks et al. v. DeHaven et al.

Cause called on merits. Edward I. Sands, Esq. argued for appellant. Robert Jencks argued for respondent in pro per. Mr. Sands replied. Cause submitted.

Court recessed at 9:16 a.m. to change panel members.

New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and
The Honorable Associate Justices Alex McDonald and Cynthia Aaron

D055112 McCluthey v. Kimball

Cause called on merits. Matthew V. Herron, Esq. argued for appellant. James A. Mangione, Esq. argued for respondent. Mr. Herron replied. Cause submitted.

Court recessed at 9:43 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and
The Honorable Associate Justices James McIntyre and Terry O'Rourke
Clerk: D. Moore

D055429 Hill v. Schwarzenegger

Cause called on merits. Brian T. Hill argued for appellant in pro per. Phillip James Lindsay, Deputy Attorney General, was present in oral argument for respondent and submitted on the briefs. Cause submitted.

D055906 In re Montelongo on Habeas Corpus

Cause called on merits. Amy Michelle Roebuck, Esq. argued for appellant. Edward J. Haggerty, Esq. argued for respondent. Ms. Roebuck replied. Cause submitted.

D054408 People v. Russell, Jr.

Cause called on merits. Jamie L. Popper, Esq. argued for appellant. Garrett Beaumont, Deputy Attorney General, argued for respondent. Ms. Popper replied. Cause to be submitted at a later date.

Court adjourned at 2:09 p.m.

D057438 In re Del Rio on Habeas Corpus

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
June 18, 2010 (Continued)

D057507 In re Allen on Habeas Corpus
The petition is denied.

D057484 People v. Stevens
The petition for transfer filed on June 9, 2010, under California Rules of Court, rule 8.1008(b), has been read and considered by Justices Benke, Huffman and O'Rourke. The petition is denied.